

BUSINESS MEETING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Business Meeting)
)
_____)

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

MONDAY, OCTOBER 30, 2006

1:32 P.M.

Reported by:
Peter Petty
Contract Number: 150-04-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMISSIONERS PRESENT

Jackalyne Pfannenstiel, Chairperson

Arthur H. Rosenfeld

John L. Geesman

Jeffrey D. Byron

STAFF and CONTRACTORS PRESENT

Scott Matthews, on behalf of Executive Director
Blevins

William Chamberlain, Chief Counsel

Don Kazama

Connie Bruins

Bob Eller

Yvonne Nelson

Rob Hudler

Bill Pennington

Dick Ratliff

Lisa DeCarlo

PUBLIC ADVISER

Nick Bartsch on behalf of Margret Kim

ALSO PRESENT

Mike Gabel
Gabel and Associates

Patrick Conlon
Director, Office of Energy Management
City of Palm Desert

Robert E. Raymer
California Building Industry Association

I N D E X

	Page
Proceedings	1
Items	1
1 Consent Calendar	1
2 Industrial Best Practice Training and Plant Assessment Contracts	1
3 Midway Sunset Cogeneration Project	4
4 Energy Emergency Response Plan	7
5 City of Palm Desert	9
6 Greenhouse Gases Emission Performance Standard	26
7 Minutes	29
8 Commission Committee Presentation/Discussion	30
9 Chief Counsel's Report	30
10 Executive Director's Report	30
11 Legislative Director's Report	31
12 Public Adviser's Report	31
13 Public Comment	31
Adjournment	31
Certificate of Reporter	32

1 P R O C E E D I N G S

2 1:32 p.m.

3 CHAIRPERSON PFANNENSTIEL: This is an
4 unusually scheduled business meeting for the
5 California Energy Commission. We'll begin with
6 the Pledge of Allegiance. Please join me.

7 (Whereupon, the Pledge of Allegiance was
8 recited in unison.)

9 CHAIRPERSON PFANNENSTIEL: We'll begin
10 with the consent calendar. Is there a motion on
11 the consent calendar?

12 COMMISSIONER ROSENFELD: I move the
13 consent calendar.

14 COMMISSIONER GEESMAN: Second.

15 CHAIRPERSON PFANNENSTIEL: In favor?

16 (Ayes.)

17 CHAIRPERSON PFANNENSTIEL: It's
18 approved.

19 Item 2, Possible approval to augment and
20 extend six existing best practice trainer
21 contracts, and add two more contracts that
22 continue the industrial training and manufacturing
23 site assessment program. Good afternoon.

24 MR. KAZAMA: Good afternoon,
25 Commissioners. I'm Don Kazama with the energy

1 efficiency division. And I am standing in today
2 for Mr. Clint Lowell, the program manager.

3 We are requesting that you approve eight
4 contracts which directly support our work with
5 California industry to provide training to them
6 and conduct plants' assessments to enable the
7 plants to save on electricity, natural gas, and
8 thereby, operating costs.

9 We have been in this program now for
10 approximately two years and have trained a number
11 of industries across the board. It's been very
12 successful and we would like to request that the
13 Commission approve these contracts to continue to
14 enable us to support this program.

15 Do you have any questions?

16 CHAIRPERSON PFANNENSTIEL: Thank you,
17 Mr. Kazama.

18 I believe I, process-wise, need to read
19 each of them into the record. But I believe we
20 can have a motion on all of them as a group.

21 So, item 2.a. is possible approval of
22 contract 400-06-008 for up to \$24,500 with Janus
23 Technology to provide industrial process heating
24 system best practice training and site
25 assessments.

1 2.b. Possible approval of contract 400-
2 06-009 for up to \$24,500 with Steam Engineering,
3 Incorporated, to provide industrial steam system
4 best practice training and site assessments.

5 2.c. Possible approval of amendment 1 to
6 contract 400-05-003 with Arvind C. Thekdi adding
7 up to \$40,900 and extending the time period by two
8 years to provide industrial process heating system
9 best practice training and site assessments.

10 2.d. Possible approval of amendment 1 to
11 contract 400-05-005 with Greg Case augmenting the
12 contract by up to \$8200 and extending the time
13 period two years to provide industrial pump system
14 best practice training and site assessments.

15 2.e. Possible approval of amendment 1 to
16 contract 400-05-006 with Rogers Machinery Company,
17 Incorporated adding up to \$19,200 and extending
18 the time period two years to provide industrial
19 compressed system best practice training and site
20 assessments.

21 2.f. Possible approval of amendment 1 to
22 contract 400-05-007 with Ron Wroblewski augmenting
23 the contract by up to \$29,200 and extending the
24 time period by two years to deliver the fan and
25 motor system best practice training and site

1 assessments.

2 2.g. Possible approval of amendment 1 to
3 contract 400-05-015 with Hudson Technologies
4 Company to add up to \$54,200 and extend the time
5 period by two years to provide industrial steam
6 system best practice training and site
7 assessments.

8 2.h. Possible approval of amendment 1 to
9 contract 400-05-016 with Draw Professional
10 Services, Inc. adding up to \$50,200 and extending
11 the time period by two years to provide industrial
12 compressed air system best practice training and
13 site assessments.

14 Is there a motion for items 2.a. through
15 2.h.?

16 COMMISSIONER ROSENFELD: I so move.

17 COMMISSIONER GEESMAN: Second.

18 CHAIRPERSON PFANNENSTIEL: Are there
19 questions or discussion on any of these items?

20 Hearing none, all in favor?

21 (Ayes.)

22 CHAIRPERSON PFANNENSTIEL: Any
23 opposition? Approved, thank you.

24 MR. KAZAMA: Thank you very much.

25 CHAIRPERSON PFANNENSTIEL: Item 3,

1 possible approval of a petition to install and new
2 evolution compressor rotor in the Unit A turbine
3 at the Midway Sunset Cogeneration Project. Ms.
4 Bruins.

5 MS. BRUINS: Good morning, Chairman,
6 Commissioners. Connie Bruins of the siting
7 division's compliance unit.

8 The Midway Sunset Cogen project is a 225
9 megawatt natural-gas-fired facility located in
10 Kern County. It's owned and operated by Midway
11 Sunset Cogen. It was certified in 1987 and has
12 been operational since May of 1989. The project
13 uses cogeneration steam to aid in the enhanced oil
14 recovery process.

15 Midway Sunset is seeking approval today
16 to install a new compressor rotor in the Unit A
17 turbine. The new serial number one rotor has
18 computer-designed shaping and length. And I have
19 a cross-sample here if anyone would like to see
20 it. Commissioner Byron expressed an interest in
21 this at the Siting Committee meeting.

22 COMMISSIONER BYRON: Thank you.

23 MS. BRUINS: There's been one minor
24 change since the petition was submitted in July.
25 The original amendment petition stated that the

1 new rotor would be installed in the spring of
2 2007. But due to delays in testing, the project
3 owner now expects to install the new rotor in
4 October of 2007.

5 The addition of the more efficient rotor
6 will enhance reliability and fuel efficiency,
7 increase generation by 7 megawatts, lower the heat
8 rate and reduce emissions for NOx and CO.

9 The changes have been approved by the
10 San Joaquin Valley Air Pollution Control District
11 and the Siting Committee.

12 The post-certification amendments follow
13 a public process. The notice of receipt was
14 published on August 9th; staff's analysis was
15 published on September the 13th. And since then
16 there have been no requests for information.

17 Staff concludes that there will be no
18 new or additional unmitigated significant
19 environmental impacts or violation of LORS
20 associated with the changes. The petition meets
21 the required findings of Public Resources Code
22 1769. And we recommend approval of the petition
23 and the revisions to condition of certification
24 Air Quality-18.

25 The project owner and technical staff

1 are available if you have any questions.

2 CHAIRPERSON PFANNENSTIEL: Thank you.

3 Are there questions? Commissioner Geesman.

4 COMMISSIONER GEESMAN: I would move
5 approval of the petition.

6 COMMISSIONER BYRON: And I will second.

7 CHAIRPERSON PFANNENSTIEL: All in favor?

8 (Ayes.)

9 CHAIRPERSON PFANNENSTIEL: It's
10 approved, thank you.

11 MS. BRUINS: Thank you.

12 CHAIRPERSON PFANNENSTIEL: Item 4,
13 possible adoption of the energy emergency response
14 plan. Public Resources Code sections 25216.5 and
15 25700 require the Energy Commission to review and
16 update a plan every five years that responds to
17 energy emergencies. The revised energy emergency
18 response plan is consistent with state and federal
19 regulations for emergency response agencies. Good
20 afternoon.

21 MR. ELLER: Good afternoon,
22 Commissioners. I'm Bob Eller; I'm the supervisor
23 in the fuels and transportation division's special
24 projects office. I'm sitting in for Sherry Stoner
25 who could not be with us today. Also with me this

1 afternoon is Yvonne Nelson from our planning team.

2 The primary purpose of the Energy
3 Commission's contingency planning program is to
4 plan for and respond to energy emergencies in
5 California. When an event occurs the energy
6 emergency response team determines the nature,
7 extent and duration of the emergency; and analyzes
8 the potential impact of the event to the state's
9 energy systems. Our response activities are
10 coordinated with the Governor's Office of
11 Emergency Services and other appropriate
12 California state agencies, as well as the U.S.
13 Department of Energy, neighboring states, local
14 governments and private industry.

15 At the heart of these response in
16 planning activities is the energy emergency
17 response plan. The plan represents a dynamic
18 planning process that identifies a management
19 structure and defines the working relationships
20 among the people who will respond to an energy
21 emergency in order to provide an efficient and
22 effective response.

23 The plan staff presents to you today is
24 consistent with state regulations requiring
25 emergency response agencies to adhere to the

1 standardized emergency management system, and with
2 the recently revised national response plan that
3 uses the national incident management system.

4 Staff recommends that the Commission
5 adopt the 2006 energy emergency response plan.
6 I'd be happy to answer any questions.

7 CHAIRPERSON PFANNENSTIEL: Thank you.
8 Are there questions or comments? Is there a
9 motion?

10 COMMISSIONER GEESMAN: I'll move it.

11 COMMISSIONER BYRON: I will second it.

12 CHAIRPERSON PFANNENSTIEL: All in favor?
13 (Ayes.)

14 CHAIRPERSON PFANNENSTIEL: The emergency
15 response plan is approved.

16 MR. ELLER: Thank you.

17 CHAIRPERSON PFANNENSTIEL: Thank you.

18 Item 5, possible approval of the City of
19 Palm Desert's adoption and enforcement of a local
20 ordinance for residential and nonresidential
21 buildings requiring energy efficiency standards
22 more stringent than the 2005 building energy
23 efficiency standards.

24 MR. HUDLER: Good afternoon,
25 Commissioners. My name is Rob Hudler. Staff is

1 before you today to request your approval of a
2 local ordinance from the City of Palm Desert.
3 Their ordinance will exceed the Title 24 standards
4 for the 2005 cycle.

5 The statutes for the building standards
6 under 10106 have specific reporting requirements
7 for local jurisdictions to provide for the
8 Commission's approval. Those are two parts. The
9 first part is a technical analysis which shows
10 what kind of exchanges or tradeoffs they're using
11 to get their energy efficiency. And staff is
12 required to review that analysis and determine
13 whether it is correct. Staff has done that, and
14 staff has been in meetings with the consultants
15 and found that the report is, in fact, correct.

16 The second secondary part of their
17 reporting requirement is to do a cost analysis.
18 And while they are required to provide a cost
19 analysis, there is no specific review requirements
20 by the Commission. It's basically justification
21 by the local agency, itself.

22 Staff have received comments that there
23 is some concern related to the analysis specific
24 to how it ends up related to the cost analysis.
25 We believe that that is not within the

1 jurisdiction of the Commission to consider. And
2 that this is an issue that must be dealt with
3 between the local agencies and the parties
4 concerned.

5 I have here Mike Gabel for Gabel
6 Associates, who did the consulting work. And Pat
7 Conlon from the City of Palm Desert to answer any
8 questions. Staff is also available. And I
9 understand we've also received additional comment.

10 CHAIRPERSON PFANNENSTIEL: Thank you,
11 Mr. Hudler. Yes, Mr. Raymer from the CBIA has
12 asked to speak. But let me first ask the City of
13 Palm Desert whether the question of cost
14 effectiveness has been considered.

15 MR. CONLON: Yes, it has.

16 MR. GABEL: This is Mike Gabel. I think
17 our analysis was quite in depth in trying to use
18 many different home prototypes that we developed
19 as a worst case scenario where the builder wanted
20 to use actually more glass than the prescriptive
21 standards.

22 And we have been working with ConSol,
23 who's BIA's consultant, and communicating about
24 details of our models and trying to work out where
25 we have differences. But we have already done a

1 new analysis in the last week which uses their
2 assumptions, but the results still prove to us
3 it's still very cost effective.

4 CHAIRPERSON PFANNENSTIEL: So your cost
5 effective analysis has been submitted to our staff
6 and we have reviewed it, reviewed the fact that it
7 has been accepted?

8 MR. GABEL: Yeah, we sent that
9 information to staff.

10 CHAIRPERSON PFANNENSTIEL: Mr. Raymer,
11 would you like to provide some comments at this
12 time?

13 MR. RAYMER: Thank you, Madam Chair and
14 Commissioners. I'm Bob Raymer, Technical Director
15 for the California Building Industry Association.
16 And today I have with me James Brownyard
17 (phonetic) from the BIA's Southern California
18 Desert Chapter. And their jurisdiction includes
19 Palm Desert.

20 Getting right to the point, CBIA and
21 BISE, respectively, would request the Commission
22 to defer action on this item to a future meeting
23 date, preferably 45 to 60 days down the road.

24 This request is made primarily to allow
25 for continued discussion between the local BIA

1 Staff, which has just recently started, and the
2 representatives of the local jurisdiction, the
3 City of Palm Desert.

4 Including in these discussions would be
5 the consultant hired by Palm Desert, which is
6 Michael, who produced most of the documents before
7 you today; our consultants, which you're familiar
8 with; but, most importantly, the BIA Staff and the
9 Palm Desert City Staff.

10 Our primary concern is the cost
11 effectiveness documentation. As per section 10-
12 106 of Title 24, Part 1, the applicant in this
13 case, the City of Palm Desert, is required to
14 provide the CEC with a number of documents,
15 including one that includes, quote, "the basis of
16 the agency's determination that the local proposed
17 standards are cost effective." Not just what they
18 cost, but that they are cost effective.

19 The building industry has reviewed the
20 documentation and has analyzed the assumptions
21 over the last two weeks and conclusions therein.
22 And it is our assertion that the proposal is
23 clearly not cost effective at this point. Not
24 that it can't be made to be cost effective.

25 As such, it is our view that the City of

1 Palm Desert, to date, has not complied with
2 section 10-106 of part 1.

3 I realize that under the Administrative
4 Code and under the statutory mandates of Public
5 Resources Code your limitation on review of the
6 content of the document is quite limited. But the
7 fact of the matter is, it does need to be a cost
8 effectiveness analysis that's been turned in.

9 If the CEC does no review at all of this
10 that effectively is saying that the jurisdiction -
11 - and I'm not saying that Palm Desert would do
12 this -- but that a jurisdiction in the State of
13 California could turn in anything and title it
14 cost effectiveness documentation, and meet their
15 statutory obligations. And I doubt seriously that
16 that's why the statute was done like that back in
17 the end of the '70s and early '80s.

18 There is also serious question as to why
19 the CEC's basecase package D features were not
20 used as the basis for determining cost
21 effectiveness of this proposal. And while this
22 may not be a statutory or administrative mandate
23 on the local jurisdiction, departing from the
24 CEC's assumptions in using home features and
25 designs which vary substantial from those in the

1 local market, raise concern by industry.

2 More importantly, we strongly question
3 the basecase assumptions that were used in the
4 Palm Desert proposal.

5 As Michael indicated, our consultants
6 are now in discussions with Michael. And I, quite
7 frankly, am optimistic that these concerns will be
8 dealt with over the next four to five weeks.

9 On this point it should be noted that
10 the PUC's Division of Ratepayer Advocates and TURN
11 have also raised serious concern with regards to
12 the cost effectiveness analysis of the Palm Desert
13 proposal. This is made clear in their response to
14 Southern California Edison's filing to utilize
15 this ordinance as part of their public filing with
16 the PUC.

17 I would also like to raise three other
18 issues for the CEC to consider. The impact on
19 low- and moderate-income housing. With regards to
20 first cost, the local ordinance treats all homes
21 equally. Put differently, a 1500-square-foot home
22 is also going to see a first cost of about \$4000,
23 according to their figures, added to the initial
24 asking price of the home. And given the smaller
25 square footage involved, the payback will be even

1 longer for the 3000-square-foot home.

2 The housing market has changed
3 drastically over the past 12 months. Adding \$4000
4 to the price of a new home will have a substantial
5 impact on housing affordability. One might even
6 venture to say that it would kill the affordable
7 market that exists there today. And that
8 affordable market is quite small, to say the
9 least.

10 Our second point regards local effective
11 date and significant enforcement concerns. While
12 the CEC agenda indicates that the City of Palm
13 Desert plans to implement this program starting
14 November 1, it's my understanding that that has
15 changed. That the local effective date is most
16 likely being moved back to January 15th of 2007.

17 Even so, given our extensive experience
18 with this issue of industry compliance and local
19 enforcement of the state energy efficiency
20 standards over the past 25 years, there is simply
21 no way, in our opinion, that the affected parties
22 in the City of Palm Desert can competently gear up
23 on this in only 60 days. Given past practice, the
24 compliance window this short will result in poor
25 compliance, plans being kicked back by the plan

1 checkers that are up to speed, and costly delays
2 from mistakes being discovered in the field.

3 Primarily this will trigger purchasing
4 contracts that will have to be renegotiated and
5 altered at the last minute. And these
6 renegotiations at the last minute will be very
7 very expensive, and will certainly not have been
8 considered in the cost impact analysis done by the
9 consultant.

10 Case in point, when dealing with the
11 state changes in the building code, including
12 those adopted by the Energy Commission, Health and
13 Safety Code 18938.5 requires a minimum of six
14 months lead time between the publication date of
15 the state code and the local effective date of the
16 state code. It's there for a reason. We cannot
17 simply assimilate the stuff overnight.

18 And in our view, a 45- to 60-day
19 timeline is simply not enough to absorb this into
20 the building code process without effecting some
21 major cost impacts on us that weren't included in
22 the analysis.

23 And lastly, the precedent for other
24 jurisdictions. Given the very predictable nature
25 of the CEC's regular updating of California's

1 energy code, it is asking a great deal for
2 industry, subcontractors, designers and local
3 enforcement to keep up to speed on these very
4 complex regulations. A patchwork quilt of local
5 energy ordinances may well be counter-productive
6 to the state's interest in seeing its own
7 regulations implemented and enforced well.

8 Considering what we learned, CBIA and
9 the Energy Commission, together, what we learned
10 in the mid 1990s, and that is there had been so
11 many changes done in so little time that were so
12 complex that both industry, the design
13 professionals and the enforcement community had
14 fallen way behind the curve and the effective
15 implementation of the state regulations.

16 We found in many jurisdictions, and some
17 of these jurisdictions were major jurisdictions
18 with large volume construction, that we were out
19 of compliance in some cases by over 15 percent.
20 That is huge, given that the changes were usually
21 5 percent every three years. In some cases we
22 were nine years out of compliance. And that was
23 bad.

24 But we learned from that that it takes a
25 good strong and ongoing educational program to

1 keep everybody involved up to speed and that
2 educational program has to be consistently
3 implemented in an ongoing fashion to make sure
4 that we don't fall behind the curve.

5 We are just now learning to do the 2005
6 update well. It's taken awhile. The City of Palm
7 Desert is about to add 10 to 15 percent on top of
8 that. The building industry will probably comply
9 with it down the road, do their best to comply
10 with it as soon as possible. But it's going to
11 create problems.

12 So, once again, we would strongly urge
13 you to defer action on this for another 6 days so
14 that the CEC Staff, the BIA Staff, the CBIA Staff
15 can discuss this a little bit longer with the Palm
16 Desert City Staff.

17 Thank you very much.

18 CHAIRPERSON PFANNENSTIEL: Thank you,
19 Mr. Raymer.

20 Mr. Pennington, I see you moved up to
21 the table. Is that for comments?

22 MR. PENNINGTON: Yeah, I just wanted to
23 reiterate that the Commission has very narrow
24 authority for reviewing these proposals from local
25 governments. That our determination is not to

1 evaluate the basis of the local government's
2 determination. It's to judge whether or not they
3 made a determination, and whether or not they
4 submitted the document to us. So, just wanted to
5 mention that again.

6 A comment was made that DRA and TURN may
7 have some concerns with this ordinance. We have
8 heard of no such concerns that have been raised
9 directly with us. There is a much larger activity
10 that's going on that Southern California Edison is
11 working with the City of Palm Desert to develop
12 local initiatives. And there may be some
13 reservation on the part of those people in the
14 proceeding overseeing that project. But we have
15 heard no criticism of this particular ordinance by
16 those organizations.

17 MR. RAYMER: I will leave the filings
18 off with Mr. Pennington that have been sent to the
19 PUC and then sent back from the PUC regarding
20 that.

21 My response is just as the CEC has
22 limited authority in the review of this, the CEC
23 is not necessarily obligated to approve this
24 today. And we're simply asking that you defer
25 taking action for a limited period of time so that

1 we could continue our discussions.

2 I do foresee us coming to terms on this.
3 It's just that we can't do it within the next few
4 seconds. Thank you.

5 CHAIRPERSON PFANNENSTIEL: Are there
6 questions from the Commissioners? I -- go ahead,
7 Commissioner Geesman.

8 COMMISSIONER GEESMAN: No.

9 CHAIRPERSON PFANNENSTIEL: I was going
10 to ask, I see Mr. Ratliff is here, and I was going
11 to ask him for his opinion on what our authority
12 is vis-a-vis the cost effectiveness calculation.
13 Do we just need to make sure that one has been
14 done that satisfies the local authority? Are we
15 supposed to draw a conclusion about the cost
16 effectiveness of the proposed building ordinance?

17 MR. RATLIFF: Well, the question goes to
18 the peculiar way in which the particular statute
19 is written. It basically says that nothing in the
20 language of our statute regarding building
21 standards prevents the enforcement of a local
22 ordinance so long as two things occur. The first
23 is the filing of the cost effective analysis with
24 the Commission; and the second is as has been
25 stated previously, is the Commission's

1 determination that the local ordinance results in
2 a diminution of energy consumption at least equal
3 to or better than that of the existing standards
4 that the Energy Commission has previously adopted.

5 So, we are not, on the face of the
6 language in the statute, required to do anything
7 with the cost effectiveness analysis. And, in
8 fact, that is mirrored in our regulation which
9 requires the filing of such a basis, but not any
10 determination by the Commission as to its accuracy
11 or adequacy.

12 CHAIRPERSON PFANNENSTIEL: Thank you.
13 Are there questions from the Commissioners?
14 Commissioner Geesman.

15 COMMISSIONER GEESMAN: I have one for
16 Bob. I appreciate you having exalted us to the
17 position of the Palm Desert City Council, but, you
18 know, all of your arguments, I would think, should
19 achieve some resonance there. Have you not had an
20 opportunity yet to present your case to the city
21 council?

22 MR. RAYMER: Well, James and his boss
23 have just recently initiated discussions with the
24 local jurisdiction over this. While the proposal
25 has been under development for some time, they had

1 not been informed of this process, which, I must
2 say, jurisdictions have different ways of going
3 about doing the same thing.

4 And I'm most familiar with fire safety
5 regulations that jurisdictions do. And usually,
6 although those can be very contentious between
7 industry and the local jurisdiction, there's
8 usually about a year's worth of development
9 between the parties.

10 Here they've basically established a
11 dialogue over the last couple weeks, even though
12 this has been a proposal that's been, to my
13 understanding, under development for some time
14 within the jurisdiction.

15 That's very problematic. And my concern
16 here is that I've been very familiar with the
17 statute for many many years. As it was first put
18 into the Public Resources Code back in the late
19 '70s, early '80s, the main intent of the statute
20 was that many legislators were concerned that
21 because of some fighting going on between CBIA and
22 the Energy Commission back in the early '80s, they
23 were afraid that maybe the state standards weren't
24 going to be taking effect, and that locals should
25 have the ability to do this.

1 Well, this has been a statute that's
2 been in there for some time and local
3 jurisdictions have, over the years, taken
4 advantage of the statute.

5 And I've got to say, a lot of the
6 comments that have been raised today by Mr.
7 Ratliff and others are to the point. But it also
8 raises the issue, this is in the statute, that
9 this finding of cost effectiveness be submitted to
10 the CEC. What if, hypothetically, a jurisdiction,
11 not Palm Desert, but any jurisdiction, approached
12 you using a discount rate of zero percent and
13 indicated that it's their understanding that
14 there's a good chance that the cost of electricity
15 will triple over the next year. Just about
16 anything on the planet could be made cost
17 effective.

18 Does the CEC just simply rubber-stamp
19 this? I'm not sure that was really the intent of
20 the legislation. But, once again, it's your call.
21 We're just simply asking for a little bit more
22 time because the dialogue has been initiated, and
23 we think it could come to fruitful end.

24 COMMISSIONER GEESMAN: Well, your
25 question poses an interesting issue, but that's

1 why we don't respond to hypothetical questions.
2 This area of land use, the regulation of
3 buildings, I think we're better advised to defer
4 to local governments whenever and wherever we can.

5 The statute clearly carves out a pretty
6 significant role for local jurisdictions that want
7 to take action in this area. I think that, you
8 know, your suggestion that a pause here might be
9 well advised probably better focused on the city
10 council. And maybe they would choose to delay
11 their implementation of the ordinance.

12 But I don't see a reason here why we
13 should hold them up or, for that matter, why we
14 really could hold them up. They've met all of the
15 requirements the statute imposes on them. And I
16 think in good faith we're supposed to discharge
17 our obligations in a timely way.

18 MR. RAYMER: Understood. Thank you.

19 CHAIRPERSON PFANNENSTIEL: Further
20 discussion or questions?

21 COMMISSIONER GEESMAN: I would move
22 approval of the staff recommendation.

23 COMMISSIONER BYRON: Second.

24 CHAIRPERSON PFANNENSTIEL: All in favor?

25 (Ayes.)

1 CHAIRPERSON PFANNENSTIEL: Thank you for
2 the discussion; it's been approved.

3 MR. HUDLER: Thank you.

4 CHAIRPERSON PFANNENSTIEL: Item 6,
5 possible approval of an order instituting
6 rulemaking to adopt regulations, Senate Bill 1368,
7 establishing a greenhouse gases emission
8 performance standard for baseload generation
9 facilities, a process for calculating the
10 emissions of greenhouse gases from baseload
11 facilities, enforcing the standard, and
12 establishing a process for re-evaluating and
13 revising the standard as necessary. Ms. DeCarlo.

14 MS. DeCARLO: Good afternoon, Chairman,
15 Commissioners. Lisa DeCarlo, Senior Staff
16 Counsel.

17 I'm presenting a proposed order
18 instituting rulemaking for your consideration.
19 This OIR would establish a rulemaking proceeding
20 pursuant to SB-1368 to establish a greenhouse gas
21 emission performance standard for baseload
22 generation facilities by June 30, 2007. It would
23 also establish a process for calculating the
24 emissions of greenhouse gases from baseload
25 facilities, and enforcing the standard; and

1 establish a process for re-evaluating and
2 revising, as necessary, the greenhouse gases
3 emission performance standard.

4 I'm available for any questions you may
5 have.

6 CHAIRPERSON PFANNENSTIEL: Are there
7 questions?

8 COMMISSIONER BYRON: A comment, if I
9 may. I think this is primarily for my fellow
10 Electricity Committee Member who was traveling
11 last week, just to let you know, Commissioner
12 Geesman, that I did meet with the CMUA and
13 Director of SMUD last week. And I'm aware that
14 there are a number of meetings that are underway,
15 even as we speak right now, with the PUC and the
16 Air Resources Board in close cooperation and
17 coordination on this issue. I hope to also meet
18 with one of my fellow PUC Commissioners.

19 Where I'm going with all of this is we
20 have an extremely aggressive schedule to complete
21 this. And we're going to be very challenged to
22 meet the June 30th deadline, which I am completely
23 committed to. And certainly appreciate and
24 welcome all this close coordination with the PUC,
25 and the full participation of the publicly owned

1 utilities, some of which I see are here today, as
2 well.

3 So, it's extremely important. We've got
4 a lot to do here over the next couple of months.
5 And I just wanted to emphasize how committed we
6 are to getting this done by June 30th.

7 CHAIRPERSON PFANNENSTIEL: Thank you,
8 Commissioner Byron. I would suggest that we are
9 moving already at blinding speed to have an OIR in
10 front of us so soon after the legislation was
11 signed. I take that as good work and a good
12 beginning. But there's a lot to be done here.

13 Further discussion? Questions?
14 Commissioner Geesman.

15 COMMISSIONER GEESMAN: I guess I would
16 add to Jeff's comments just the fact that I think
17 we ought to be both committed to the statutory
18 deadlines, which are important, but also to the
19 due process obligations that our statute and just
20 good government require. And make certain that
21 all parties are given an opportunity to be heard
22 from and fully immerse themselves in our process.

23 I know that we will conduct it in a
24 quite transparent fashion. And I know the statute
25 also provides the additional challenge of

1 coordinating our process with the Public Utilities
2 Commission. And I think we should strive to do
3 that in a way that's both transparent and which
4 affords the participants in our process all the
5 due process that they're entitled to.

6 CHAIRPERSON PFANNENSTIEL: Other
7 discussion? Is there a motion?

8 COMMISSIONER BYRON: I'll move the item.

9 COMMISSIONER GEESMAN: Second.

10 CHAIRPERSON PFANNENSTIEL: In favor?

11 (Ayes.)

12 CHAIRPERSON PFANNENSTIEL: The OIR is
13 approved.

14 MS. DeCARLO: Thank you.

15 CHAIRPERSON PFANNENSTIEL: Approval of
16 minutes. Approval of the October 3, 2006 business
17 meeting minutes.

18 COMMISSIONER ROSENFELD: I move the
19 minutes.

20 COMMISSIONER BYRON: Second.

21 CHAIRPERSON PFANNENSTIEL: In favor?

22 (Ayes.)

23 COMMISSIONER GEESMAN: I'm going to have
24 to abstain, Madam Chair.

25 CHAIRPERSON PFANNENSTIEL: Yes. One

1 abstention. Thank you.

2 Approval of the minutes of the October
3 11, 2006 business meeting.

4 COMMISSIONER ROSENFELD: I move the
5 minutes for October 11th.

6 COMMISSIONER BYRON: Second.

7 COMMISSIONER GEESMAN: And another
8 abstention.

9 CHAIRPERSON PFANNENSTIEL: All in favor?
10 (Ayes.)

11 CHAIRPERSON PFANNENSTIEL: Both sets of
12 minutes have been approved.

13 Commission Committee presentations or
14 discussion. Any discussion from the Commission?
15 Hearing none.

16 Moving on to the Chief Counsel's report.

17 MR. CHAMBERLAIN: I have no report
18 today, Madam Chair.

19 CHAIRPERSON PFANNENSTIEL: Thank you,
20 Mr. Chamberlain.

21 Executive Director's report, Mr.
22 Matthews.

23 ASSISTANT EXECUTIVE DIRECTOR MATTHEWS:
24 Neither do I.

25 CHAIRPERSON PFANNENSTIEL: Thank you.

1 Leg Director's report. I see nobody from the Leg
2 Office.

3 Public Adviser's report.

4 MR. BARTSCH: Madam Chair, Members, Nick
5 Bartsch representing Margret Kim. Nothing new to
6 report.

7 CHAIRPERSON PFANNENSTIEL: Thank you.
8 Public comment. Anybody seeking to address the
9 Commission?

10 Hearing none, we will be adjourned.

11 Thank you.

12 (Whereupon, at 2:07 p.m., the business
13 meeting was adjourned.)

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CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Business Meeting; that it was
thereafter transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
meeting, nor in any way interested in outcome of
said meeting.

IN WITNESS WHEREOF, I have hereunto set
my hand this 1st day of November, 2006.

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